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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/941,148

08/27/2001

Thomas Huber

INTE.17USU1

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7590

04/01/2003

THE LAW OFFICES OF WILLIAM W. COCHRAN, LLC
3555 STANFORD ROAD
SUITE 230
FORT COLLINS, CO 80525

EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 04/01/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

81

Office Action Summary

Application No.

09/941,148

Applicant(s)

HUBER ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18, 27-34, 44-52, 62 and 64-70 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-18, 27-34, 44-52, 62 and 64-70 is/are rejected.
- 7) ☒ Claim(s) 10-18, 27-34, 44-52, 62 and 64-70 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 32-33, 35, 53, 96, and 148. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 58. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claims 16-18, and 50-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner notes that these claims make reference to "said tags", which are not defined in the corresponding independent claims 10 and 44.

Claim Objections

4. Claims 10-18, 27-34, 44-52, 62, and 64-70 are objected to because of the following informalities:

A comma is required between the claim numbers and "wherein". Example, "A method of claim 10, wherein". Appropriate correction is required.

In claims 14-15, and 30-31 require a space between the claim numbers and "wherein".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 10, 12-14, 44, and 46-48 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nickum (U.S. Patent No. 6,359,661).

Referring to claim 10, Nickum discloses a method of controlling displayed video and data content utilizing a remote control device (Column 1, Lines 55-56) that interacts with a set-top box (Column 5, Lines 29-33).

Nickum also discloses recognizing a current user with an interface in said personal remote control unit (Column 5, Lines 16-21).

Nickum also discloses establishing an identification of a current user based upon the recognition of data supplied to the remote (Column 5, Lines 16-21).

Nickum also discloses communicating the identification of the current user to the set-top box (Column 5, Lines 11-13), and note that the disclosure of Nickum states, "the

process represented by FIG. 4 can be executed by circuitry incorporated in the remote control devices, the television receiver, or an attached device such as a cable control box" (Column 5, Lines 28-33).

Nickum also discloses assigning preference and profile data (program control data and profile data) corresponding to the current user to a current user database (EEPROM) within the set-top box (see explanation above regarding the set-top box and Column 5, Lines 46-49).

Nickum also discloses controlling output of the set-top box by controlling video content based on the preference and profile data within said current user database (see explanation above regarding the set-top box and Column 6, Lines 9-19 and Lines 58-67).

Referring to claims 12-13, Nickum discloses that the recognition of the current user is based on a physical or intellectual attribute. Note that Nickum can provide a special remote for children (Column 4, Lines 62-65). It is therefore inherent, that when the children's remote is used, the set-top box is aware a child is accessing the system. The examiner notes that a child has specific physical and intellectual attributes.

Referring to claim 14, Nickum discloses that profile data can be derived from usage patterns of the remote control device (see Column 7, Lines 45-48).

Referring to claim 44, Nickum discloses an ID input device within the remote to determine the identity of the current user (Column 5, Lines 42-44), and a communications link between the personalized remote control and the set-top box for

transmission of the identification of the current user to the set-top box (Column 3, Lines 49-58 and Column 8, Lines 34-36).

Nickum also discloses that the set-top box assigns preference and profile data corresponding to the current user to a current user database within the set-top box (Column 5, Lines 46-49), and controls the interactive output by controlling the video content based on the preference and profile data within the current user database (Column 5, Lines 49-59).

Referring to claims 46-48, see rejection of claims 12-14, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 15, 27-31, 45, 49, 62, and 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum in view of Perlman (U.S. Patent No. 6,125,259).

Referring to claim 11, Nickum teaches all of the limitations in claim 10, but fails to teach comparing tags that are placed in the video stream that indicate content of the video stream to preference and profile data. Perlman teaches EPG data, which includes rating data (Column 5, Lines 14-27 and Table I), and that is transmitted from a headend to a receiver (Column 12, Lines 35-37) and this data is compared to preference and profile data (predefined ratings code in parental control unit at Column 7, Lines 63-67). At the time the invention was made, it would have been obvious to a

person of ordinary skill in the art to modify the set-top box, as taught by Nickum, using the EPG storage unit and Parental lockout unit, for the purpose of selectively blocking the reception of television channels due to content of the programs (Column 1, Lines 37-44).

Claim 15 directly relates to claim 11, Perlman notes that EPG data is sent from the headend, which is before receiving the data at the input of the set-top box, therefore the data is "pre-tagged" (see Column 5, Lines 8-10).

Referring to claim 27, see rejection of claims 10 and 11.

Referring to claims 28-31, see rejection of claims 12-15.

Referring to claim 45, see rejection of claim 11.

Referring to claim 49, see rejection of claim 15.

Referring to claim 62, see rejection of claims 44 and 45.

Referring to claims 64-67, see rejection of claims 46-49.

Claims 32-34 and 68-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum in view of Perlman in further view of Official Notice.

Referring to claims 32-34, Nickum discloses all the limitations in claims 10, but fails to disclose that tags are created in real time by video recognition techniques utilizing keywords, key images and key sounds. The examiner takes Official Notice that a headend can correlate data using keywords, key images and key sounds, for the purpose of filtering specific data for a user.

Referring to claims 68-70, see rejection of claims 32-34.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Cragun et al. (U.S. Patent No. 5,973,683) discloses dynamic regulation of television viewing content based on a user's profile and viewing history.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

March 24, 2003


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600